

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-110121-001 SE

01/09/2014

JUDGE PRO TEM PHEMONIA L. MILLER

CLERK OF THE COURT
Y. King
Deputy

STATE OF ARIZONA

DIANE M MELOCHE

v.

PAUL ANTHONY ROBLEDO (001)

PAUL ANTHONY ROBLEDO
#250767 ASPC LEWIS/BACHMAN
P O BOX 3500
BUCKEYE AZ 85326

POST-CONVICTION RELIEF DENIED

The Court has reviewed defendant's Notice of Post-Conviction Relief and Petition for Post-Conviction Relief Record, both filed on November 22, 2013.

Defendant pled guilty to count 1, Attempted First Degree Murder, a Class 2 Dangerous Felony. The Court sentenced the defendant on February 8, 2010, to a 21 year term of imprisonment. This is the defendant's third Rule 32 proceeding; it is both untimely and successive.

The defendant claims, pursuant to Ariz. R. Crim. P. 32.1(e), that there are newly discovered material facts which probably would have changed the verdict or sentence in her case. To be entitled to post-conviction relief based on newly discovered evidence, the defendant must show that the evidence was discovered after trial although existed before trial; the evidence could not have been discovered and produced at trial or appeal through reasonable diligence; the evidence is neither solely cumulative nor impeaching; the evidence is material; and the evidence probably would have changed the verdict or sentence. *State v. Saenz*, 197 Ariz. 487, 489, ¶ 7, 4 P.3d 1030, 1032 (App. 2000), *see also* Ariz. R. Crim. P. 32.1(e).

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Defendant fails to support this claim. The defendant states that he has been diagnosed with dissociative identity disorder. However, the defendant fails to provide any facts, affidavits, records, or other evidence to support why these facts could not have been discovered and produced at trial through reasonable diligence

Defendant is claiming, pursuant to Ariz. R. Crim. P. 32.1(a), that he received ineffective assistance of counsel. Defendant also claims, pursuant to Ariz. R. Crim. P. 32.1(c), the prison sentence imposed by the Court exceeded the maximum authorized by law, or is otherwise not in accordance with the sentence authorized by law. Defendant cannot raise these claims in an untimely or successive Rule 32 proceeding because an untimely notice may only raise claims pursuant to Rule 32.1(d), (e), (f), (g), or (h). Ariz. R. Crim. P. 32.4(a). In addition, the claims the defendant has raised were required to be raised in Defendant's timely Rule 32 proceeding. Therefore, the defendant is procedurally precluded from raising them now. Ariz. R. Crim. P. 32.2(a)(2).

A defendant must comply strictly with Rule 32 by asserting substantive grounds which bring him within the provisions of the Rule in order for the Court to grant relief. *State v. Manning*, 143 Ariz. 139, 141, 692 P.2d 318, 320 (1984). Defendant fails to state a claim for which relief can be granted in an untimely Rule 32 proceeding. Rule 32.4(a).

IT IS THEREFORE ORDERED dismissing Defendant's Notice of Post-Conviction Relief and Petition for Post-Conviction Relief.